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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the)
Telecommunications Act of 1996)
)
Telecommunications Carriers' Use of)
Customer Proprietary Network)
Information and Other Customer)
Information)

CC Docket No. 96-115

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**REPLY COMMENTS OF
MOBILEMEDIA COMMUNICATIONS, INC.**

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June 26, 1996

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**REPLY COMMENTS OF
MOBILEMEDIA COMMUNICATIONS, INC.**

MobileMedia Communications, Inc. ("MobileMedia")¹ hereby submits its reply comments in the above-captioned docket.² Section 702 of the Telecommunications Act of 1996 ("1996 Act") added a new Section 222 to the Communications Act of 1934, as amended, which sets forth, *inter alia*, restrictions on the use of customer proprietary network information ("CPNI") obtained by telecommunications carriers when providing telecommunications service to customers and certain requirements related to the availability of subscriber list information. The Commission has requested comment on

¹ MobileMedia, the parent company of MobileMedia Paging, Inc. and Mobile Communications Corporation of America, holds narrowband paging licenses throughout the common carrier and private carrier bands. In addition, the company has two nationwide one-way wireless networks, and two nationwide narrowband PCS licenses.

² *In the Matter of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Notice of Proposed Rulemaking, FCC 96-221 (rel. May 17, 1996) ("NPRM").

proposed regulations to specify in more detail, as well as clarify, the obligations of telecommunications carriers with respect to the use and protection of CPNI and other customer information.

Section 222(c)(1) authorizes a telecommunications carrier to use individually identifiable CPNI obtained from the provision of a particular telecommunications service solely to provide that particular telecommunications service and/or to provide services necessary for or used in the provision of the particular telecommunications service.³ Neither Section 222 nor the definition of “telecommunications service” within the 1996 Act defines the scope of “telecommunications service” as this term is used in Section 222.

The Commission has tentatively concluded that it would be reasonable to interpret new Section 222 as distinguishing among telecommunications services based on traditional service distinctions. Under this approach, the Commission has tentatively decided to establish three baskets of services for purposes of the CPNI rules: local (including short-haul toll); interexchange (including interstate, intrastate and international long distance offerings, as well as short-haul toll); and commercial mobile radio services (“CMRS”).

MobileMedia agrees that a reasonably broad definition of telecommunications services is important because it takes into account carriers’ needs to use CPNI in certain circumstances to proactively provide their customers with information regarding new and innovative service offerings directly related to the services customers are already

³ 47 U.S.C. § 222(c)(1).

receiving.⁴ MobileMedia agrees with those commenters that support the Commission's division of telecommunications services into the three broad categories discussed above.⁵ The Commission's approach appropriately balances customer interests in confidentiality with competitive considerations.

To ensure that the customers' interests in confidentiality are protected, the Commission has requested comment on the appropriate methods carriers should use to obtain customer approval to use CPNI as well as the appropriate methods to notify customers of their right to restrict access to CPNI. Section 222 does not specify the procedures a carrier must use.

Consistent with the views of several commenters, MobileMedia believes that the Commission should allow carriers operating in competitive markets, such as one-way paging, the flexibility to select the most appropriate method for notifying customers of their rights and obtaining approval from their customers.⁶ The extremely competitive nature of the paging industry has created very strong market incentives to maintain customer loyalty by protecting the privacy of CPNI. Thus, there is no need for the Commission to mandate the procedures for notification or for obtaining prior customer approval for competitive markets such as one-way paging.

⁴ See Comments of AirTouch Communications, Inc. at 3.

⁵ See, e.g., Comments of AirTouch Communications, Inc. at 2-3; Comments of Paging Network, Inc. at 2-3; Comments of Arch Communications Group, Inc. at 6.

⁶ See, e.g., Comments of AirTouch Communications, Inc. at 5-6; Comments of Arch Communications Group, Inc. at 8-9.

Finally, MobileMedia agrees with the Personal Communications Industry Association's interpretation of Section 222(e) as not requiring CMRS providers, including one-way paging carriers, to make their subscriber list information available upon request.⁷ As the Commission itself concluded, Section 222(e) applies only to LECs and other telecommunications carriers that provide telephone exchange service.⁸ Because one-way paging providers do not provide exchange service, they are exempt from the subscriber list disclosure requirements of Section 222(e).

For the foregoing reasons, the Commission should adopt its tentative approach to distinguish telecommunications services for Section 222 purposes. Further, the Commission should allow one-way paging carriers the flexibility to determine the appropriate methods for notifying customers of their rights and of obtaining prior customer approval to use CPNI. Finally, the Commission should confirm that CMRS carriers, including one-way paging carriers, are exempt from Section 222(e)'s subscriber list disclosure requirements since they do not provide telephone exchange service.

Respectfully submitted,



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⁷ Comments of the Personal Communications Industry Association at 4-5.

⁸ *NPRM* at ¶ 43.

CERTIFICATE OF SERVICE

I, Phyllis Martin, do hereby certify that copies of the foregoing "Reply Comments of MobileMedia Communications, Inc." were served this 26th day of June, 1996 by first class United States mail, postage prepaid to the following:

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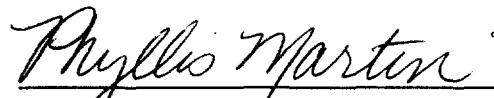
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